

**HONOURABLE SMT. JUSTICE T.MEENA KUMARI  
&  
HONOURABLE SRI JUSTICE G. CHANDRAIAH**

**WRIT PETITION No:17638 OF 2007**

**Dated: 21.8.2007**

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Between:

M.Balu Naik ..Petitioner

And

1. Tulsiram Naik & others ..Respondents.

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**HONOURABLE SMT. JUSTICE T.MEENA KUMARI  
&  
HONOURABLE SRI JUSTICE G. CHANDRAIAH**

**WRIT PETITION No:17638 OF 2007**

**ORDER:** (Per the Hon'ble Smt. Justice T. Meena Kumari)

This writ petition is filed by the petitioner seeking to call for the records pertaining to the order dated 27.6.2007 passed in O.A.No:784 of 2005 and to set aside the same.

The 1<sup>st</sup> respondent herein is the applicant. He filed the O.A. challenging the non consideration of the applicant for selection for the post of G.D.S. M.C. at Ambavaram Branch Officer and for declaration that the selection of the 3<sup>rd</sup> respondent-petitioner herein as illegal and arbitrary and to set aside the proceedings No:136/GDS, dated 27.6.2005. The tribunal having observed that the action of the selection committee in not opening the sealed cover of the applicant to consider his application, is arbitrary and not in accordance with law and the applicant is deprived of his right to be considered for the post and hence the selection made by the respondents on 20.6.2005 is not sustainable in law and in case the application of the applicant satisfies all the requisite conditions mentioned in the notification and is found meritorious than the 3<sup>rd</sup> respondent, his case shall be considered for the said post in the place of 3<sup>rd</sup> respondent, disposed of the O.A. Having aggrieved by the same, the 3<sup>rd</sup> respondent has preferred the present writ petition.

Heard the learned counsel and the material available on record as well as the order impugned.

The main thrust of the argument of the learned counsel for the applicant is that the application of the applicant has not been considered only on the ground that his application has been sent by an ordinary post and apart from that, the applicant has secured more marks than the 3<sup>rd</sup> respondent, but the action of the selection committee in not opening the application of the applicant and in not qualifying in the interview on the ground that the application was sent by ordinary post, is arbitrary.

Notification itself does not insist that the applications sent by ordinary post will not be entertained or considered as rightly observed by the tribunal. Apart from that, as rightly observed by the tribunal, on

a mere technicality that the application was sent by the applicant by ordinary post, his case cannot be brushed aside. In this view of the matter and in the present facts and circumstances of the case, We feel that the action of the authorities in not considering the application of the applicant sent by ordinary post, amounts to a flaw in the selection procedure. Therefore, We feel it appropriate to modify the order of the tribunal as under:

The respondents-authorities are directed to call for the interview of all the persons, including the applicant as well as the 3<sup>rd</sup> respondent-writ petitioner who have attended the interview conducted on 20.6.2005, by constituting a separate selection committee, on a date as fixed by the authorities. Such a process of selection shall be completed within a period of two (2) months from the date of receipt of a copy of this order. It is needless to observe that the selection of the candidate shall be meritorious and subject to fulfillment of all the requirements. Accordingly, W.P. is disposed of.

However, it is made clear that till such time, status quo as on today shall be maintained.

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Justice T. Meena Kumari

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Justice G. Chandraiah

Date: 21<sup>st</sup> August, 2007  
Gurc.

**HONOURABLE SMT. JUSTICE T.MEENA KUMARI  
&  
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**WRIT PETITION No:17638 OF 2007**

(Order delivered by the Hon’ble Smt. Justice T. Meena Kumari)

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21<sup>st</sup> August, 2007